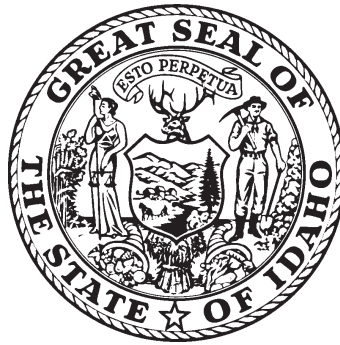


2007

SUPPLEMENT



ELECTION LAWS

Compiled under the authority of:

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Secretary of State
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CHAPTER 1

DEFINITIONS

SECTION

34-106. Limitations Upon Elections.

34-106. Limitation upon elections. On and after January 1, 1994, notwithstanding any other provisions of the law to the contrary, there shall be no more than four (4) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) the first Tuesday in February of each year; and

(b) the fourth Tuesday in May of each year; and

(c) the first Tuesday in August of each year; and

(d) the Tuesday following the first Monday in November of each year.

(e) In addition to the elections specified in paragraphs (a) through (d) of this subsection, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or if it is necessary to do emergency work to safeguard life, health or property. Such a special election, if conducted by the county clerk, shall be conducted at the expense of the political subdivision submitting the question.

(2) Candidates for office elected in February, May or August shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 1994, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules, regulations or interpretations for the conduct of election authorized under the provisions of this section.

(6) School districts governed by title 33, Idaho Code, but not including community colleges governed by chapter 21, title 33, Idaho Code, and water districts

governed by chapter 6, title 42, Idaho Code, are exempt from the provisions of this section.

(7) Initiative, referendum, and recall elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than forty-five (45) days after the clerk of the political subdivision orders that such initiative, referendum or recall election shall be held. (History: S.L. 1992, Ch. 176; S.L. 1993, Ch. 313; S.L. 2007, Ch. 92)

CHAPTER 6

TIME OF ELECTIONS - OFFICERS ELECTED

SECTION

34-625. Election of Highway District Commissioners in Single Countywide Districts -- Qualifications

34-625A. Election of Highway District Commissioners in Certain Single Countywide Districts -- Qualifications

34-625. Election of highway district commissioners in single countywide districts — Qualifications. (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404, Idaho Code.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: "I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number"

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be deposited in the county current expense fund. (History: S.L. 1972, Ch. 345; S.L. 1985, Ch. 253; S.L. 1987, Ch. 75; S.L. 1998, Ch. 300; S.L. 2007, Ch. 313)

34-625A. Election of Highway District Commissioners in certain single countywide districts — qualifications. (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404A, Idaho Code.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: "I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number"

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CHAPTER 7

NOMINATIONS—CONVENTIONS—PRIMARY ELECTIONS

SECTION

34-732. Selection of candidates for nomination in presidential primary.

34-732. Selection of candidates for nomination in presidential primary.

Each qualified elector shall have the opportunity to vote on the official presidential preference primary ballot for one (1) person to be the candidate for nomination by a party for president of the United States. The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only:

(1) If the secretary of state shall have determined, in his sole discretion, that the person's candidacy is generally advocated or recognized in national news media throughout the United States. For the purpose of promoting the aspect of a regional primary in this regard, the secretary of state may consult with the chief election officers of neighboring states which conduct a presidential primary election on the fourth Tuesday in May. The secretary of state shall publish the names of such persons determined by him to be such candidates, together with their party affiliation, not less than sixty (60) days prior to the date of the presidential preference primary.

(2) Any candidate who was not placed upon the ballot by the secretary of state under the provisions of subsection (1) of this section shall be placed upon the ballot after filing a declaration of candidacy accompanied by a one thousand dollar (\$1,000) filing fee. The declaration shall be filed with the secretary of state no later than the fiftieth day prior to the date of the presidential preference primary. (History: S.L. 1975, Ch. 174; S.L. 2007, Ch. 202)

CHAPTER 9

BALLOTS

SECTION

34-907A. Information on Legislators' support for Congressional Term Limits Amendment.

34-907B. Term Limits Pledge.

34-907A. [Repealed - S.L. 2007, Ch. 202]

34-907B. [Repealed - S.L. 2007, Ch. 202]

CHAPTER 10

ABSENTEE VOTING

SECTION

34-1005. Return of absentee ballot.

34-1007. Transmission of absentee ballots to polls.

34-1005. Return of absentee ballot. The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office. He shall safely keep and preserve all absent electors' ballots unopened until the time prescribed for delivery to the judges in accordance with this act. (History: S.L. 1970, Ch. 140; S.L. 1972, Ch. 157; S.L. 1995, Ch. 215; S.L. 2007, Ch. 202)

34-1007. Transmission of absentee ballots to polls. On receipt of such absent elector's ballot or ballots, the officer receiving them shall forthwith enclose the same, unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "absent electors' ballot to be opened only at the polls." He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots. In those counties which count ballots at a central location, absentee ballots that are received may, in the discretion of the county clerk, be retained in a secure place in the clerk's office and such ballot shall be added to the precinct returns at the time of ballot tabulation. The clerk shall deliver to the polls a list of those absentee ballots received to record in the official poll book that the elector has voted. (History: S.L. 1970, Ch. 140; S.L. 2002, Ch. 236; S.L. 2007, Ch. 202)

CHAPTER 11
CONDUCT OF ELECTIONS

SECTION

34-1107. Manner of voting.

34-1107. Manner of voting. On receipt of his ballot the elector shall retire to a vacant voting booth and mark his ballot according to the instructions provided by law.

After marking his ballot, the elector shall present himself to the judge at the ballot box and state his name and residence. The elector shall then deposit his ballot in the proper box or hand his ballot to the election judge, who shall deposit it. The judge shall then record that the elector has voted and proclaim the same in an audible voice. (History: S.L. 1970, Ch. 140; S.L. 1971, Ch. 129; S.L. 1972, Ch. 349; S.L. 1973, Ch. 304; S.L. 2007, Ch. 202)

CHAPTER 18
INITIATIVE AND REFERENDUM ELECTIONS

SECTION

34-1805. Sponsors to print petition - Number of signers required.

34-1805. Sponsors to print petition - Number of signers required. After the form of the initiative or referendum petition has been approved by the secretary of state as in sections 34-1801A through 34-1822, Idaho Code, provided, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters. Before such petitions shall be entitled to final filing and consideration by the secretary of state there shall be affixed thereto the signatures of legal voters equal in number to not less than six per cent (6%) of the qualified electors of the state at the time of the last general election. (History: S.L. 1933, Ch. 210; S.L. 1997, Ch. 266; S.L. 2007, Ch. 202)

CHAPTER 22

CONSTITUTIONAL CONVENTION ACT

SECTION

34-2205 Qualifications of delegates — Nominating petitions — Declarations of candidates and signers — Certification.

34-2205. Qualifications of delegates — Nominating petitions — Declarations of candidates and signers — Certification. Candidates for the office of delegate to the convention shall be qualified electors of the state of Idaho. Nomination shall be by petition and not otherwise. A single petition shall nominate but one (1) candidate, who may have one (1) or more separate petitions. Nominations shall be without party or political designation, but the nominating petitions shall each contain a declaration of the candidate that he is a candidate for election to the office of delegate to the constitutional convention, and a statement to the effect that he favors ratification of, or that he is against ratification of the proposed constitutional amendment to be acted upon by the constitutional convention, and the total number of voters joining in the nomination of a candidate shall not be less than one hundred (100).

The candidate's declaration in the nominating petition shall be in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of _____ precinct, _____ County, State of Idaho, hereby declare myself to be a candidate for the office of delegate to the constitutional convention, to be voted for at the election to be held on the _____ day of _____, _____, and that I _____ (insert one only of the following: "favor ratification of" _____ or "am against ratification of") the proposed constitutional amendment to be acted upon by the constitutional convention, and certify that I possess the legal qualifications to fill said office, and that my post-office address is _____.

I further certify and declare that if nominated I hereby accept said office.

(Signed) _____

All blank spaces shall be properly filled in with the necessary information and the declaration of candidacy shall be subscribed and sworn to before an officer authorized to administer oaths, and the signatures of the voters joining in such petitions, each of which signatures shall be followed by the signer's residence address and date, shall be prefaced by a declaration in substantially the following form, to-wit:

I, the undersigned, being a qualified elector of the State of Idaho, do hereby declare that I am in accord with the statement and declaration of _____, a candidate for the office of delegate to the

constitutional convention, to be voted for at the election to be held on the _____ day of _____, _____, and do hereby join in this petition for his nomination for such office.

Name of Petitioner

Post Office

Date of Signing

Each nominating petition shall, at the time of filing in the office of the secretary of state, bear an affidavit in substantially the following form, executed and verified by a citizen and resident of the State of Idaho:

State of Idaho

ss.

County of _____

I do solemnly swear (or affirm) that I am a citizen and resident of the State of Idaho; that each of the petitioners whose name is affixed to the above paper signed the same personally, together with his post-office address and date of signing, and that each signed the same with full knowledge of its contents; that to the best of my knowledge each is a qualified elector of the State of Idaho.

(Signed) _____

Subscribed and sworn to before me this ____ day of _____, ____

Notary Public for the State of Idaho;
residence _____

No voter shall sign more than twenty-one (21) nominating petitions nor more than one (1) petition for the same candidate, and if he does either, his signatures shall not be counted on any nominating petition.

All acceptances and petitions shall be filed with the secretary of state not less than forty-five (45) days before the date fixed for the election. No nomination shall be effective except those of the twenty-one (21) candidates in favor of ratification and the twenty-one (21) candidates against ratification whose nominating petitions have respectively been signed by the largest number of voters, ties, if any, to be decided by lot drawn by the secretary of state; provided, however, that if there be less than twenty-one (21) candidates in favor of ratification, all such candidates shall be considered as nominated, or if there be less than twenty-one (21) candidates against ratification all such candidates shall be considered as nominated.

Within ten (10) days after the petitions are filed with him, the secretary of state shall certify to each county auditor within the state, a certified list of the candidates of each group entitled to be voted for at such election, as appears from the acceptances and nominating petitions filed in the office of the secretary of state. (History: 1933, Ch. 179, section 5, p. 328, S.L. 2007, Ch. 90)

CHAPTER 24

VOTING BY MACHINE OR VOTE TALLY SYSTEM

SECTION

34-2409 Examination of machines by secretary of state prior to adoption.

34-2409. Examination of machines by secretary of state prior to adoption. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. In order for any voting machine or vote tally system to be certified in Idaho it must meet the federal election commission standards and be approved for use by an independent testing authority sanctioned by the national association of state election directors (NASD) or be certified by the Federal Election Assistance Commission.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the

voting system meets the requirements of the "Help America Vote Act of 2002," Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing. (History: S.L. 1970, Ch. 140; S.L. 2001, Ch. 272; S.L. 2005, Ch. 282; S.L. 2007, Ch. 202)

TITLE 18 CHAPTER 23

ELECTIONEERING AT POLLS

SECTION

18-2318. Electioneering at Polls

18-2318. Electioneering at Polls. (1) On the day of any primary, general or special election, no person may, within a polling place, or any building in which an election is being held, or within one hundred (100) feet thereof:

- (a) Do any electioneering;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures to any kind of petition; or
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(3) Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of such officer, to arrest any person violating the provisions of subsections (1) and (2) of this section, and such offender shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor exceeding one hundred dollars (\$100). (History: S.L. 1986, Ch. 97; S.L. 1997, Ch. 360; S.L. 2007, Ch. 202)